

OPENING STATEMENT
OF
REPRESENTATIVE MATTHEW F. MCHUGH
ON THE SECOND DAY OF HEARINGS
APRIL 8, 1987

Today is the second day of hearings on the issue of whether existing law is adequate to assure meaningful Congressional oversight of covert operations, and more particularly whether amendments to the law are necessary to clarify Congressional intent with respect to Presidential notifications to Congress of covert operations.

Under current law the President is required, as a general rule, to notify the Intelligence Committees of the House and Senate prior to undertaking a covert operation that he has authorized. However, the law recognizes two limited exceptions to this general requirement. The first permits the President to restrict prior notice to a leadership group of eight members of the House and Senate where the President determines that such restricted notice is essential to meet "extraordinary circumstances affecting vital interests of the United States." The second exception recognizes that in certain undefined cases the President may withhold prior notification, but in such cases the law requires that the President provide the Intelligence Committees with notice "in a timely fashion" and with a statement explaining why prior notice was not given.

The Subcommittee has before it two bills that would amend current law, both of which were introduced in the wake of disclosures that the President had authorized the covert sale of military weapons to Iran. In that case the President conducted his covert policy for as long as 14 months without providing any notice to the Intelligence Committees or to the leadership

group of eight. Many of us in Congress believe that in this respect the President utterly failed to comply with existing law, the effects of which included depriving Congress of its right and responsibility to exercise oversight of a significant intelligence activity. It also deprived the President of informed advice that might have helped him avoid a policy which has caused substantial damage.

One bill before the Subcommittee, introduced by Mr. Mineta of California, would require prior notice of all covert operations. The second bill, introduced by Mr. Stokes of Ohio and others, would require prior notice in virtually all cases, but would permit the President to withhold such notice in situations where time is of the essence and there are extraordinary circumstances affecting the vital interests of the United States. However, even in those limited circumstances, the President would be required to notify the Intelligence Committees within 48 hours after the covert action has begun. Both bills would preserve the President's right to restrict prior notice to the leadership group if there are extraordinary circumstances affecting vital interests of the United States.

At our first hearing last week the Subcommittee heard from five distinguished witnesses on this subject. They were the Speaker of the House, Jim Wright, the House Minority Leader, Bob Michel, two former Directors of the Central Intelligence Agency, William Colby and Stansfield Turner, and Ray Cline, a former Deputy Director of the Agency. Speaker Wright strongly endorsed the Stokes bill, claiming that the Iran case demonstrated that current law should be amended to make clear that withholding prior notice can be justified only in extraordinary circumstances where time is of the essence, and that timely notice after the fact would permit a delay of no longer than 48 hours. The other witnesses,

while conceding that President Reagan failed to give timely notice in the Iran case, urged that current law be retained so as to afford the President necessary flexibility, particularly under circumstances involving a risk to human life.

The Subcommittee is fortunate today in having another group of very distinguished witnesses. We appreciate their taking the time to be with us to share their views, and we look forward to their testimony.